

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DAVID TAYLOR and)
PATRICK L. HORNA)
)
Plaintiffs,)
)
v.)
)
SCHMIDT QUALITY CONSTRUCTION)
INC., an Illinois Corporation, JUDITH A.)
SCHMIDT and JAMES)
SCHMIDT, individually and in their official)
Capacity as an Employers,)
)
Defendants,)
)
)
)
Case No. 08 cv 0147
Honorable Samuel Der-Yegiayan
Magistrate Judge Geraldine Soat Brown
Jury Trial Demanded

**PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT AGAINST
CORPORATE DEFENDANT SCHMIDT QUALITY CONSTRUCTION**

NOW COMES, the Plaintiffs by and through their attorney John C. Ireland of the Law Office of John C. Ireland and herein moves this Honorable Court to enter a Order finding the Corporate Defendant, Schmidt Quality Construction, in Default for failure to Answer or Appear in this matter after Service of Process and expiration of the filing period of time and in support of said motion states as follows:

1. Plaintiffs filed this action on January 8, 2008.
2. The Corporate Defendant, Schmidt Quality Construction, was served with Process on January 10, 2008.

3. Service of Process was to the Corporate Defendant via it's Registered Agent: **Spiegel & Utrera, P.A. 123 West Madison Street Suite 806 Chicago, Illinois 60602**
4. Notice of this Service of Process was issued to the same registered agents subsequently.
5. Plaintiff now moves this Honorable Court to enter a Default Judgment against the Defendant in accord with Federal Rule of Civil Procedure 55 as follows:
 - a. Rule 55 states: "When a party against whom a judgment for affirmative relief is sought has failed to plead or otherwise defend, and that failure is shown by affidavit or otherwise, the clerk must enter the party's default".
 - i. In this case, the Defendant has failed to plead, defend or otherwise appear, therefore the Plaintiff asks for entry of a Default Judgment.
6. Further, Rule 55 also states "If the party against whom a default judgment is sought has appeared personally or by a representative, that party or its representative must be served with written notice of the application at least 3 days before the hearing.
 - a. Again, no Defendant or representative has appeared, therefore Plaintiff has not served notice, other than through the delivery of a copy of this motion in advance of the hearing, to each of the Defendant's current listed addresses and the Registered Agent.
7. Further Rule 55 states; "The court may conduct hearings or make referrals — preserving any federal statutory right to a jury trial — when, to enter or effectuate judgment, it needs to:
 - (A) conduct an accounting;
 - (B) determine the amount of damages;

(C) establish the truth of any allegation by evidence; or

(D) investigate any other matter.

8. Accordingly, Plaintiffs ask the court to allow for a determination of damages by the means this Honorable Court sees best for this matter.

WHEREFORE, the Plaintiffs' pray for entry of an Order finding the Defendant, Schmidt Quality Construction, Inc., in default and an Order allowing for a determination of damages.

2/28/2008 _____ /s/ _____ John C. Ireland _____
Date John C. Ireland

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